

INDIANA DEPARTMENT OF EDUCATION'S EDGAR HEARING PROCEDURES

This policy prescribes procedures to be used for appealing a decision by the Indiana Department of Education (Department) relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations §§ 75 and 76.

A. Hearing Issues.

A school district or public agency may request a hearing if it alleges that the Department violated a federal statute or regulation by:

1. Terminating further assistance for an approved project;
 2. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds;
 3. Disapproving or failing to approve the application or project in whole or in part;
 4. Failing to provide funds in amounts in accordance with the requirements of statutes and regulations;
- or
5. Not approving the school district's or public agency's proposal for funding.

B. Hearing Appeals Panel.

When a school district or public agency requests a hearing, the Superintendent of Public Instruction (Superintendent) shall select a three-member hearing appeals panel from the members of the Department's Executive Management Council (EMC) other than those within the same division as the federal program area under which the appeal rose.

C. Hearing procedures

1. An applicant must request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in subsection (A) of this rule. If the applicant is or represents a school district, authorization to seek a hearing must come from the Governing Body of that school district.
2. The request for hearing must set forth the nature of the complaint and the facts on which the complaint is based.
3. The applicant shall request a hearing within thirty (30) calendar days of the date notice of the Department action was sent. For purposes of this rule, the date of notice by the Department is the date of sending notice of the Department action.
4. A hearing shall be scheduled before the hearing appeals panel within thirty(30) calendar days from

the receipt of the request.

5. The hearing appeals panel chair shall give at least ten (10) days' notice of the hearing date to the complainant.

6. The applicant and the Department may submit written materials no later than five (5) days prior to the hearing, such materials to consist of six (6) copies.

7. At the hearing the parties may present evidence in writing and through witnesses and may be represented by counsel.

8. The length and order of the presentation may be determined by the hearing appeals panel chair.

9. If the applicant or authorized representative fails to appear at the designated time, place, and date of the hearing, the appeal shall be considered closed and the process terminated.

D. Decision.

No later than ten (10) calendar days after the hearing, the hearing appeals panel shall issue its written ruling, including findings of fact and reasons for the ruling

E. Appeal.

If the hearing appeals panel does not rescind the Department's action, the applicant may appeal to the U.S. Department of Education. The applicant shall file a notice of appeal with the U.S. Department of Education within twenty (20) calendar days after the applicant has been notified by certified mail of the hearing appeals panel's decision.

Requests for Hearings under this policy must be sent by certified mail to:

State Superintendent of Public Instruction
Indiana Department of Education
Room 229, State House
Indianapolis, Indiana 46204-2798

Effective June 2003.